In the High Court of Uttaranchal, at Nainital.
A.O. No. 1094/2001
(F.A.F.O. No. 490/1996)

1- Executive Engineer,
U.P. State Electricity Board,
Electricity Distribution Division,
Hardwar.

2- Sub Divisional Officer,
Electricity Distribution Division-I,
U.P. State Electricity Board,
Mayapur, Hardwar ..... Appellants.

Vs.

1- Smt. Sushilia Widow of late Subhash Chandra, R/o Hydel Colony, Bahadrabad, Hardwar.

2- Master Diwakar (minor)
Under the guardianship of his own mother
Smt. Sushila ..... Respondents.

Sri Ganesh Kandpal, holding brief for Sri B.D. Upadhyaya, learned counsel for the appellants.
Sri Dinesh Gahatori, learned counsel for the respondents.

Hon'ble B.C. Kandpal, J.

This Appeal from Order, U/S 30 of the Workmen Compensation Act, 1923, has been filed by the Electricity Department, against the judgment and order dated 30-5-1996, passed by the Workmen Compensation Commissioner/A.D.M., Haridwar, in case No. 1/1992 (old No. 6/86/1/89) Subhash Chandra Vs. Executive Engineer, thereby awarding a compensation of a sum of Rs. 1,04,960/-.

2- Brief facts of the case are that Subhash Chandra moved an application for compensation before the Workmen Compensation Commissioner/ Additional District Magistrate, Haridwar, on the ground that he was posted as Patrolman in U.P. State Electricity Board at the time of the accident. On 19-8-1984 at

about 9 P.M. there was a breakdown in the electricity line, hence he went to the spot in order to repair the line. After the repair, when the applicant Subhash Chandra wanted to re-check the electricity line, he sustained injuries on his person on account of electricity current. As per the averments made in the application, the applicant Subhash Chandra was on duty at the time of the accident. The applicant had to be taken to B.H.E.L., Hospital. Thereafter, he was referred for higher treatment to Safdarjang Hospital New Delhi. The applicant claimed compensation from the Electricity Department, but he could not succeed, hence he filed the claim petition before the Workmen Compensation Commissioner.

3- The authorities of the Electricity Department were issued notice and they filed their written statement before the Workmen Compensation Commissioner. The pleading taken by the authorities of the Electricity Department, was that the applicant at the time of the accident was not on his official duty, and whatever the work was performed, it was done in his personal responsibility, hence is not entitled to get any compensation.

4- The court below, on the basis of the pleadings adduced by the parties, framed the following issues:-

1- Whether the claim was time barred?
2- Whether the applicant was on duty at the time of the accident?
3- Whether the applicant is entitled to get the total compensation?
4- Whether the claimant is authorized to get the compensation?.

5- The applicant Subhash Chandra, in support of his case produced himself as P.W.1 and P.W.2, Shyam Lal Yadav. The Electricity Department produced D.W.1 S.P.Gupta, Junior Engineer and D.W.2, Tarun Kumar.

6- During the pendency of the claim petition the applicant Subhash Chandra died on 3-8-1995, therefore, the claimants/respondents Smt. Sushila and master Diwakar were impleaded as legal heirs of the applicant.

7- The learned court below after hearing learned counsel for the parties and having perused the entire material on record, awarded a compensation of Rs. 1,04,960/- in favour of the claimant/respondents. The court below also directed that the amount of compensation shall be paid by the U.P. State Electricity Department/appellant vide judgment and order dated 30-5-1996.

8- Feeling aggrieved by the aforesaid judgment and award, this A.O. has been preferred before the Allahabad High Court, which has been transferred to this court after creation of new State.

9- Heard learned counsel for the parties and perused the record.

10- The statements of P.W.1 and P.W.2 clearly reveal that the claimant Subhash Chandra was on duty at the time of the accident. The statement of D.W.1, S.P. Gupta, who is the Junior Engineer, in the Electricity Department, clearly reveals that it was the duty of the Lineman and Patrolman to repair the electricity

line. It has been further stated by this witness that whenever any complaint comes to the Electricity Department, then the Lineman and Patrolman both go to the spot in order to repair the electricity line. This witness has further deposed that the Lineman Ram Swarup was deployed for the area of Bahadarabad and Subhash Chandra was also attached with him as Patrolman. Therefore, the entire evidence available on record clearly establish that the applicant Subhash Chandra was on his official duty at the time of the accident and during the course of discharge of his official duty he met with an accident. The court below has rightly held that the claimant Subhash Chandra being an employee of Electricity Department was entitled to get the compensation from his department, as he met with an accident, while discharging his official duty.

11- I do not find any illegality or infirmity in the impugned judgment and order passed by the Workmen Compensation Commissioner. The court below has rightly assessed the evidence on record and I do not find any ground to interfere with the conclusion drawn by the trial court in awarding the compensation in favour of the respondents/claimants.

12- The appeal lacks merit and is liable to be dismissed.

13- Accordingly the appeal is dismissed. No order as to costs.

(B.C. Kandpal, J.)

Dated: 20-09-2006
ISB